



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

May 19, 2005

Samia Khoury
55 West Hollis Street
Nashua, NH 03060

Re: Docket No. AF 05-019 Motion to Accept Settlement Agreement

Dear Ms. Khoury:

Enclosed for your records is a copy of the Motion to Accept Settlement Agreement in the above-captioned matter executed by Anthony P. Giunta, P.G., Director of the Waste Management Division, and accepted by Commissioner Michael P. Nolin on May 19, 2005.

On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

Sincerely,

COPY

Michael P. Sclafani,
Legal Assistant

cc: Anthony P. Giunta, PG., Director, Waste Management Division
Gretchen R. Hamel, Administrator, DES Legal Unit
Kerry D. Barnsley, Compliance Attorney, DES Legal Unit
DES Public Information Officer
Lynn Woodard, DES WMD
Thomas Beaulieu, DES WMD
Tammy Calligandes, DES WMD

Samia Khoury
55 West Hollis Street
Nashua, NH 03060

**ADMINISTRATIVE FINE
No. AF 05-019**

Re: Eddie's Service Station, 55 West Hollis Street
Nashua, NH- UST ID#0-110422

MOTION TO ACCEPT SETTLEMENT AGREEMENT

NOW COME the Department of Environmental Services, Waste Management Division ("the Division") and Samia Khoury parties to the above-captioned matter, and stipulate to the following:

1. The Commissioner of the Department of Environmental Services ("DES"), is authorized under RSA 146-C:10-a to impose administrative fines of up to \$2,000 per offense for violations of RSA 146-C and Env-Wm 1401 relating to installation, maintenance, operation, and closure of underground storage facilities. Pursuant to RSA 146-C:10-a, the Commissioner has adopted Env-C 607 to establish the schedule of fines for such violations.
2. Samia Khoury is the registered facility owner of three underground storage tank ("UST") systems at the Eddie's Service Station facility ("the Facility"), further identified as UST # 0-110422, located on real property at 55 West Hollis Street, Nashua, NH ("the Property").
3. On March 4, 2005, the Division issued Notice of Proposed Administrative Fine No. AF 05-019 ("the Notice") to Samia Khoury seeking fines totaling \$4,500 for violations of New Hampshire Administrative Rule Part Env-Wm 1401.
4. The Notice cited Ms. Khoury for violating Env-Wm 1401.11(a) by failing to maintain accurate stock inventory records for Tanks 7, 8, and 9 in accordance with RSA 146-C:5 and Env-Wm 1401.11. Pursuant to Env-C 607.05(a) the Division sought a fine of \$1,500.
5. The Notice further cited Ms. Khoury for violating Env-Wm 1401.33 by failing to install corrosion protection for the steel piping under the dispensers for Tanks 7, 8, 9. Pursuant to Env-C 607.03(f) the Division sought a fine of \$3,000.
6. In order to settle this matter, the Division and Ms. Khoury have agreed to the terms of this Settlement Agreement ("Agreement"), as set forth herein.
7. Of the proposed fine, in the amount of \$4,500, 20% or \$900 shall be suspended due to this being a one-time unintentional violation. An additional 20% or \$900 shall be suspended due to Ms. Khoury's good faith effort to return this facility to compliance. An additional 20% or \$900 shall be suspended due to the Facility's small business status.

8. The suspended portion of the proposed fine, in the amount of \$2,700 is contingent upon Ms. Khoury maintaining the subject UST facility in compliance with Env-Wm 1401 for a period of two years from the date of the execution of this Agreement. If Ms. Khoury fails to maintain compliance during the two-year period, the suspended portion of the fine, in the amount of \$2,700 shall become due and payable immediately. If Ms. Khoury maintains compliance for the prescribed two-year period, the suspended portion of the fine shall be waived.

9. Ms. Khoury agrees to pay the remaining \$1,800 as follows: \$600 will be due upon execution of this Agreement by Samia Khoury; a 2nd installment payment of \$600 will be due 30 days from the date of this agreement; and a 3rd and final installment will be due 60 days from the date of the agreement.

10. Payment under Paragraph # 9 and any payment that becomes due pursuant to Paragraph #8 shall be paid by certified check made payable to: "Treasurer, State of New Hampshire" and mailed to:

DES Legal Unit
Attention: Michael Sclafani, Legal Assistant
P.O. Box 95
Concord, NH 03302-0095

11. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.

12. By executing this Agreement, Ms. Khoury waives her right to a hearing on or any appeal of the administrative fines identified in the Notice, and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction.

13. The effective date of this Agreement will be the date on which it is signed by Ms. Khoury, the Director of the Waste Management Division, and the Commissioner of DES. After that date, this Agreement may be amended only by written agreement signed by both parties and the Commissioner. Any such amendment will become effective on the date on which it has been accepted by the Commissioner.

14. No failure by DES to enforce any provision of this Agreement after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this Agreement on any further breach or default.

A handwritten signature in black ink, appearing to read "Samia Khoury", is written over the bottom right portion of the text area.

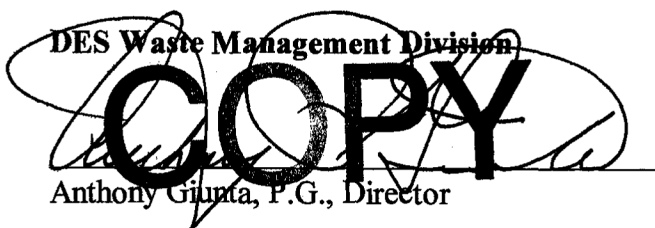
WHEREFORE, the parties respectfully request the Commissioner to accept the terms of this Agreement by granting this Motion.

Respectfully submitted,


05-14-05
Date


Sam Khoury, Owner

5/16/05
Date

DES Waste Management Division

Anthony Giunta, P.G., Director

This Motion to Accept Settlement agreement is granted this 19th day of May, 2005.


Michael P. Nolin, Commissioner
Department of Environmental Services